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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,516	08/30/2001	John E. Auer	2000P09059US01	8141
43713 7590 02/05/2007 JACK SCHWARTZ & ASSOCIATES 1350 BROADWAY, SUITE 1510 NEW YORK, NY 10018			EXAMINER COBANOGLU, DILEK B	
			ART UNIT 3626	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/05/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/942,516

Applicant(s)

AUER, JOHN E.

Examiner

Dilek B. Cobanoglu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-16 and 18-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 08/30/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This communication is in response to the Request for Continued Examination (RCE) received 12/03/2006. Claims 1, 11, 18 and 22 have been amended. Claims 7 and 17 have been cancelled. Claims 1-6, 8-16 and 18-23 still pending.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1-6, 8-10 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. As per claim 1, it is a system claim comprising a processor for acquiring data about a patient from plural of sources and a menu generator, which generates a composite window. The menu generator is not a hardware that supports the system, according to the specification, page 7, lines 16-26, it is a program (or software) such as web browser program, and this program is generating composite windows. Therefore the processor is the only component of the system, but it only acquires data from plural of sources. Claim 1 is missing the components of the system.

B. Claims 2-6 and 8-10 are dependent claims of claim 1, they don't comprise any missing components of the system, therefore rejected for the same reasons given for claim 1.

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C. Claim 20 is depending on claim 18, which is a method claim, but the claim states "the system of claim 18". Examiner consider that "system" is actually "method".

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6, 8-16 and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenberg et al. (hereinafter Schoenberg) (U.S. Patent Publication No. 2005/0125256 A1) in view of Wallace et al. (hereinafter Wallace) (U.S. Patent No. 6,305,373 B1).

A. Claim 11 is amended now to recite a method for displaying medical information derived from a plurality of sources, comprising the steps of:

- i. acquiring data associated with a patient from at least one of a plurality of sources (Schoenberg; abstract, paragraph 0012);
- ii. prioritizing the acquired data for display in a desired order (Schoenberg; paragraphs 0037, 0042); and
- iii. generating a composite window for displaying said ordered acquired data in a graphical format in a first panel, displaying user specified parameters of said ordered acquired data in tabular format in a

second panel(Schoenberg; paragraphs 0052, 0054, 0063), and displaying a user selected one of user-entered medical notes, medical laboratory results, and ventilator data in a third panel

Schoenberg fails to expressly teach the user-entered ventilator data. However, this feature is well known in the art, as evidenced by Wallace.

In particular, Wallace discloses the user-entered ventilator data (Wallace; col. 3, lines 1-14).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Wallace with the motivation of controlling the ventilator and displaying the appropriate alarms settings and patient data (Wallace; abstract).

iv. navigating through the user specified parameters in tabular format by positioning a slider bar included in said second panel (Schoenberg; paragraph 0052); and

v. controlling a cursor included in said first panel, said cursor being controlled by said slider bar, said slider bar controlling said cursor and enabling concurrent user navigation in both said first and second panels through said user specified parameters in both graphical format and tabular format (Schoenberg; paragraphs 0052, 0054).

B. As per claim 12, Schoenberg discloses the method of claim 11.

Schoenberg fails to expressly teach the ventilator data comprising ventilator parameters. However, this feature is well known in the art, as evidenced by Wallace.

In particular, Wallace discloses the ventilator data comprising ventilator parameters (Wallace; col. 3, lines 14-18).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Wallace with the motivation of to configure a therapy that is customized for the particular patient (Wallace; col. 4, lines 6-11).

C. As per claim 13, Schoenberg discloses the method of claim 11 further comprising the step of displaying the acquired data within a user-selected time frame (Schoenberg; paragraph 0054).

D. As per claim 14, Schoenberg discloses the method of claim 13 wherein a cursor is displayed indicating a selected time during the selected time frame (Schoenberg; paragraphs 0037, 0054).

E. As per claim 15, Schoenberg discloses the method of claim 14 further comprising the step of displaying a time corresponding to the selected cursor time (Schoenberg; paragraphs 0037, 0054).

F. As per claim 16, Schoenberg discloses the method of claim 15 further comprising the step of providing an annotate icon for allowing a user to enter an

annotation for the selected time during the selected time period (Schoenberg; paragraph 0051).

G. Claim 18 is now amended, and repeats that same limitations as claim 1.

Therefore, claim 18 is rejected for the same reasons given in the rejection of claim 1 above and incorporated hereinwith.

H. As per claim 19, Schoenberg discloses the method of claim 18 further comprising the step of displaying the acquired data in different colors (Schoenberg; paragraph 0052).

I. As per claim 20, Schoenberg discloses the method of claim 18 further comprising the step of displaying the acquired data in varying scales (Schoenberg; paragraph 0055).

J. Claim 22 has been amended now to recite the method of claim 11 further comprising the step of activating a scalability icon included in said composite window for selecting a time scale of the displayed acquired data in both said graphical and tabular format (Schoenberg; paragraph 0054).

K. As per claims 1-6, 8-10, they are system claims, which repeat the same limitations of claims 11-16, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of Schoenberg and Wallace disclose the underlying process steps that constitute the methods of claims 11-16, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the

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limitations of claims 1-6, 8-10 are rejected for the same reasons given above for claims 11-16.

L. Claim 21 has been amended now to recite the system of claim 1 wherein said composite window includes a scalability icon for selecting a time scale of the displayed acquired data in both said graphical and tabular format (Schoenberg; paragraphs 0037, 0054).

M. Claim 23 has been amended now to recite the system of claim 1 wherein said concurrent navigation comprises navigation through substantially synchronized user specified parameters in graphical format and tabular format (Schoenberg; paragraphs 0054, 0055).

### ***Response to Arguments***

6. Applicant's arguments filed 12/03/2006 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear.

A. In response to Applicant's argument about Wallace does not teach a processor for acquiring data associated with a patient from at least one of the plurality of sources, the processor prioritizing the acquired data for display in a desired order, Examiner respectfully submits that Schoenberg teaches the medical data and other information of interest to the medical team is stored in a personal computer (paragraph 000042), Examiner considers that there is a processor in the computer and system receiving patient data and information from various sources and displays such information in abstract and paragraph



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0012, the computer processes and displays the information in real time in a graphic and/or text display in paragraph 0042, Examiner considers that processing and displaying the information in real time is prioritizing it in a desired order.

B. In response to Applicant's argument about neither Schoenberg nor Wallace teach the generating a composite window and second panel includes a slider bar for navigating through the user specified parameters in tabular format; and said first panel includes a cursor, said cursor being controlled by said slider bar wherein navigation through said user specified parameters in tabular from by said slider bar causes the concurrent navigation of said user specified parameters in graphical format, Examiner respectfully submits that Schoenberg teaches vital signs data for a patient in both tabular and graphical forms in paragraph 0052, and multiple display in paragraph 0055, time scale (slider bar) can be selectively changed by a user for any of all of the images (concurrent navigation) in paragraph 0054, a user device, which may be any kind of selection device, for example keyboard (with cursor control) in paragraph 0037.

C. In response to Applicant's argument about Schoenberg does not teach second panel includes a slider bar for navigating through the user specified parameters in tabular format; and said first panel includes a cursor, said slider bar controlling said cursor and enabling concurrent user navigation in both said first and second panels through said user specified parameters in both graphical

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and tabular format, Examiner respectfully submits that paragraph 0031 of the specification recite a time slider bar, so that

"The user may then use time slider bar 352 to focus on the specific time period within the days specified in the date navigator 330, so that the particular time period of interest may be displayed on the screen."

In paragraph 0054 Schoenberg teaches a time scale as a slider bar, the table below the graph includes numerical data in one minute intervals of time and time scale can be changed for any of all the images, a cursor in paragraph 0037 and in paragraph 0052 multiple simultaneous displays, and tabular, graphical or graphical/tabular display.

D. In response to Applicant's argument about neither of these references is concerned with concurrently navigating through the display of data in graphical and tabular format, Examiner respectfully submits that Schoenberg teaches vital signs data for a patient in both tabular and graphical format in paragraph 0052, and in Figure 2A, the formats of data is shown; tabular and graphical format, and navigating through these displays can be done by changing the time for either one of them and the other display would show the same time.

E. In response to Applicant's argument about this combination does not teach a composite window including a first panel for displaying user specified parameters of said ordered acquired data in a graphical format, a second panel for displaying user specified parameters of said ordered acquired data in tabular format, and a

third panel for displaying a user selected one of user-entered medical notes, medical laboratory results, and ventilator data, Examiner respectfully submits that Schoenberg teaches a multiple windows and graphical/tabular display in paragraphs 0052 and 0054, Examiner also combined Schoenberg with Wallace, because Wallace teaches multiple screen with user selectable values of various ventilator operating parameters. The motivation is controlling the ventilator and displaying the appropriate alarms settings as for each patient, since Schoenberg teaches a ventilator as one of the patient bedside monitors in paragraph 0031.

F. In response to Applicant's argument about neither of these references teach a cursor is displayed indicating a selected time during the selected time frame and a time display field displays the time corresponding to the selected cursor time, Schoenberg teaches "The controller 14 includes a user device (keyboard/pointer 22) which is responsive to a user selection action for generating a selection signal. The user device may be any kind of selection device, for example, a keyboard (with cursor control), mouse, light pen, trackball, touch pad, or voice controlled pointer provided by speech recognition software." in paragraph 0037. Schoenberg also teaches reference parameter is time in paragraph 0053, time scale can be selectively changed by a user in paragraph 0054.

G. Applicant's argument about neither of these references teach displaying the acquired data within a user-selected time frame is explained above in section (F).

H. Applicant's argument about neither of these references teaches a scalability icon for selecting a time scale of the displayed acquired data in both said graphical and tabular format is addressed in section (F) above.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not used prior art teach Method and apparatus for controlling video display priority 4956640 A, Medical information system with automatic updating of task list in response to charting interventions on task list window into an associated form 5077666 A, Method for use of color and selective highlighting to indicate patient critical events in a centralized patient monitoring system 5262944 A, Data processing system and method for automatically performing prioritized nursing diagnoses from patient assessment data 5404292 A, Ambulatory patient health monitoring techniques utilizing interactive visual communication 5441047 A, Display control apparatus and method of using same 5499036 A, Method and apparatus for coordinating concurrent updates to a medical information database 5546580 A, Computer system and method for storing medical histories using a carrying size card 5659741 A, Method and system for constructing formulae for processing medical data 5715451 A, Distributed hypermedia method for automatically invoking external application providing interaction and display of embedded objects within a hypermedia document 5838906 A, Intensive care information graphical display 5921920 A, Medical

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data display method 5941820 A, Systems, methods and computer program products for monitoring, diagnosing and treating medical conditions of remotely located patients 6024699 A, Interactive method and system for managing physical exams, diagnosis and treatment protocols in a health care practice 6047259 A, Method and apparatus for controlling a medical ventilator 6390091 B1, Ventilator control system and method 6584973 B1, Remote control and tactile feedback system for medical apparatus 6834647 B2.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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02/02/2007

*Carolyn Bleck*  
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*2/2/07*